

REMARKS

In the Final Office Action mailed 11 December 2008, the Examiner rejected claims 14, 15, 17, 18, 20-26, 30, and 36-37 for obviousness-type double patenting; and rejected claims 14, 15, 17, 18, 20-26, 30, and 36-37 under 35 U.S.C. 102(e).

Applicants have submitted a terminal disclaimer to overcome the double patenting and have submitted a new priority claim to remove the 102(e) reference. Applicants have canceled non-elected claims 31-35 as requested by Examiner. Claim 25 is hereby amended per Examiner's request.

Claims 14, 15, 17, 18, 20-26, 30, and 36-37 remain pending in this application.

Rejection Under Doctrine of Obviousness-Type Double Patenting

Applicants enclose a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b) to overcome the rejection based on obviousness-type double patenting. Accordingly, reconsideration is requested in view of the Terminal Disclaimer.

Rejection Under 35 U.S.C. § 102(e) of Claims 14, 15, 17, 18, 20-26, 30, and 36-37

The Examiner rejects **claims 14, 15, 17, 18, 20-26, 30, and 36-37** under 35 U.S.C. § 102(e) as anticipated by Meltzer (U.S. Patent No.: 6125391 A, filed 10/16/1998).

Amendment to the specification, claiming priority to Meltzer, effectively removes the reference from consideration as prior art. Pursuant to MPEP § 714.13, this amendment may be entered after final because it places the application in condition for allowance without raising any new issues or requiring any new search. It merely removes the art of record from being applied as a reference, just as the Examiner suggests in the Office Action. The Applicants' time period for making a claim of priority is open-ended and not limited by the American Inventors Protection Act of 1999 (see MPEP § 201.11(V)) because this application was filed before November 29, 2000. Therefore, Applicants respectfully submit that the amendment should be entered and the application is then in condition for allowance.

CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance and thereby solicit acceptance of the claims as now stated.

Applicants would welcome an interview, if the Examiner is so inclined. The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 a.m. to 5:30 p.m. PST, Monday through Friday, and can be reached at his cell phone at (415) 902-6112 most other times.

Fee Authorization. The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-0869 (OIN 1012-1).

Respectfully submitted,

Dated: January 16, 2009

/Ernest J. Beffel, Jr./

Ernest J. Beffel, Jr.

Registration No. 43,489

Haynes Beffel & Wolfeld LLP
P.O. Box 366
Half Moon Bay, CA 94019
Telephone: (650) 712-0340
Facsimile: (650) 712-0263